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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,803	06/28/2001	Bharath Rangarajan	F0660	7099

7590 07/30/2003

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EXAMINER

ROSENBERGER, RICHARD A

ART UNIT PAPER NUMBER

2877

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/893,803

Applicant(s)

RANGARAJAN ET AL.

Examiner

Richard A Rosenberger

Art Unit

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
- NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

1. The remarks filed 15 July 2003 have been considered but have not been found to be persuasive.
2. The remarks point out that originally filed claim 14 is directed to "a data packet" and argues that therefore claim 30, also directed to "a data packet", is thus directed to the "same invention" and should not be subject to restriction. However, claim 14 is a substantially different claim than claim 30. Claim 14 specifically relates the claimed data packet to a system having the same details as the claimed system of originally filed claim 1; compare the last 13 lines of originally presented claim 14 with the last 13 lines of originally filed claim 1. Added claim 30, however, does not contain any of the details of the originally claimed invention; it merely relates the data packet broadly to "a scatterometry derived means for producing multi-sloped profiled devices", with none of the details of any of the originally filed claims. Added claim 30 goes far beyond what was originally claimed, which requires etching (claim 30 does not set forth etching), and requires control of the etching process (claim 30 does not require such control). Thus the restriction of claim 30 is considered proper.
3. The remarks argue that the Ausschnitt reference does not teach "scatterometry for producing multi-sloped devices". This is of course correct, the rejection is in no way based upon any allegation that it does. Ausschnitt shows, as is

set forth in the final rejection, that it is known in the art to control an etch process using optical measurements, and thus demonstrates that such control is known and is within the skill and knowledge of those in the art.

The remarks argue that there is no motivation to combine the Ausschnitt and Coronel references (with the acknowledged prior art, which the remarks omit). However, the art does teach that controlling an etch process is known and known to be beneficial, which is motivation for using such control, not only with the etch processes of the references, but with any known etch process, there is no reason for those in the art to imagine that known etching processes which can produce multi-sloped devices cannot be or become improperly set up and thus have need to be controlled in a known manner.

The remarks argue that "[n]o where in the specification does the applicant state that scatterometry is a well-known technique within the art". [the sentence bridging pages 10 and 11 of the remarks]. The instant specification, page 12, lines 14-15 states that "[s]catterometry systems are well known in the art . . ."; thus the allegation that [n]o where in the specification does applicant state that scatterometry is a well-known technique in within the art' is simply not true; even the words "well known" are in the specification in reference to scatterometry systems.

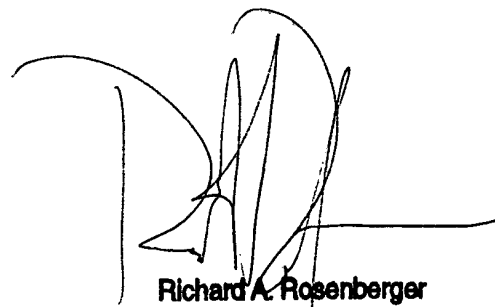
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4. Papers related to this application may be submitted to Group 2800 by facsimile transmission. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (15 November 1989). The fax number is (703) 308-7722.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. A. Rosenberger whose telephone number is (703) 308-4804.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

R. A. Rosenberger  
22 July 2003



Richard A. Rosenberger  
Primary Examiner